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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 825,

Plaintiff,

v.

PROFEX, INC.,

Defendant.

Civil Action No. 7:20-cv-00097-CS

**ORDER COMPELLING THE  
PRODUCTION OF DEFENDANT’S  
FED. R. CIV. P. 26(A)(1) INITIAL  
DISCLOSURES AND ADJUSTING  
CERTAIN INTERIM DEADLINES SET  
BY THE CIVIL CASE DISCOVERY  
PLAN AND SCHEDULING ORDER**

**THIS MATTER**, having been opened to the Court by plaintiff, the International Union of Operating Engineers Local 825 (“Plaintiff”), by and through its attorneys, DeCotiis, FitzPatrick, Cole & Giblin, LLP, for relief pursuant to Paragraph 7 of the Court’s June 18, 2020 Civil Case Discovery Plan and Scheduling Order (the “Plan and Order”), as a result of the continuing failure of defendant Profex, Inc. (“Defendant”), to serve its Fed. R. Civ. P. 26(a)(1) Initial Disclosures;

And the Court, having reviewed and considered the letter submitted by Plaintiff in support of its request for relief pursuant to Paragraph 7 of the Plan and Order, and having also reviewed and considered the letter (if any) submitted by Defendant in response to Plaintiff’s request;

And for the reasons placed on the record, and for good cause shown;

**IT IS** on this 1st day of October, 2020, **ORDERED** as follows; effective as of 7/29/20, the date of my oral order,

1. Defendant shall serve its Fed. R. Civ. P. 26(a)(1) Initial Disclosures upon Plaintiff no later than August 12, 2020. If Defendant fails to serve its Fed. R. Civ. P. 26(a)(1) Initial Disclosures by that date, then its Answer shall be deemed suppressed without the need for the entry of a further Order from this Court, and Plaintiff shall be entitled to apply for the entry of Final Judgment by Default;

2. The following interim deadlines set by the Plan and Order are amended as follows:

a. Paragraph 2 of the Plan and Order is amended to provide that any pre-motion conference in connection with a motion to amend or join additional parties must be requested by August 30, 2020;

b. Paragraph 4a of the Plan and Order is amended to provide that initial requests for production of documents are to be served no later than seven (7) days after Defendant serves its Fed. R. Civ. P. 26(a)(1) Initial Disclosures;

c. Paragraph 4b of the Plan and Order is amended to provide that initial Interrogatories are to be served no later than seven (7) days after Defendant serves its Fed. R. Civ. P. 26(a)(1) Initial Disclosures;

d. Paragraph 4d of the Plan and Order is amended to provide that Requests to Admit, if any, are to be served by September 4, 2020; and

e. Paragraph 4e of the Plan and Order is amended to provide that any further Interrogatories are to be served by September 4, 2020.



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HON. CATHY SEIBEL, U.S.D.J.